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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/601,134      | 06/20/2003  | Siegfried Sumser     | MB 372              | 5953             |

7590 07/26/2004

Klaus Bach  
4407 Twin Oaks Drive  
Murrysville, PA 15668

EXAMINER

RICHTER, SHELDON J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3748

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/601,134

Applicant(s)

SUMSER ET AL.

Examiner

Sheldon J Richter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/20/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: On page 3, line 22, the spelling of the term "praxis" should be corrected.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Woollenweber. Fig. 1 of Woollenweber discloses a turbine 11, for an exhaust gas turbocharger, including a turbine wheel 30, with a number of turbine wheel blades 31, supported in a housing defining a first radial inlet flow channel 26, a variable guide vane structure 51, arranged in said first inlet flow channel for guiding exhaust gas radially onto said turbine wheel, a second inlet flow channel 27, which extends semi-axially to said turbine wheel for guiding exhaust gas to said turbine wheel in a semi-axial flow direction, said turbine wheel blades 31, being arranged so as to define between circumferentially adjacent blades at the semi-axial second inlet flow channel a flow cross-section which has a minimum 24b, at its inlet end.

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4. Claims 1-2 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Sumser et al. The figure of Sumser et al discloses a turbine 7, for an exhaust gas turbocharger, including a turbine wheel, with a number of turbine wheel blades, supported in a housing defining a first radial inlet flow channel 12, a variable guide vane structure 19, arranged in said first inlet flow channel for guiding exhaust gas radially onto said turbine wheel, a second inlet flow channel 11, which extends semi-axially to said turbine wheel for guiding exhaust gas to said turbine wheel in a semi-axial flow direction, said turbine wheel blades, being arranged so as to define between circumferentially adjacent blades at the semi-axial second inlet flow channel a flow cross-section which has a minimum at its inlet end. With reference to claims 2 and 5, note guide vanes 16 of Sumser et al.

***Allowable Subject Matter***

5. Claims 3-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6216459, 6220031, Finger et al, Horner et al, Schmid et al, Engels et al. are cited to show the state of the art .

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheldon J Richter whose telephone number is (703) 305-0475.

The examiner can normally be reached on M-F 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703) 308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'S. Richter', with a stylized, cursive script.

Sheldon J Richter  
Primary Examiner  
Art Unit 3748

SJR